United States Court of AppealsFor the First Circuit

No. 12-2312

SUN CAPITAL PARTNERS III, LP; SUN CAPITAL PARTNERS III QP, LP; SUN CAPITAL PARTNERS IV, LP,

Plaintiffs, Appellees,

v.

NEW ENGLAND TEAMSTERS & TRUCKING INDUSTRY PENSION FUND,

Defendant, Third Party Plaintiff, Appellant,

SCOTT BRASS HOLDING CORP.; SUN SCOTT BRASS, LLC,

Third Party Defendants.

JUDGMENT

Entered: July 24, 2013

This cause came on to be heard on appeal from the United States District Court for the District of Massachusetts and was argued by counsel.

Upon consideration whereof, it is now here ordered, adjudged and decreed as follows: The district court's grant of summary judgment is reversed in part, vacated in part, and affirmed in part. The case is remanded to the district court for further proceedings, including those needed to determine the "trade or business" issue as to Sun Fund III, and the issue of common control. No costs are awarded.

By the Court:

/s/ Margaret Carter, Clerk

cc: Theodore Joel Folkman, Jeffrey S. Quinn, John F. Hartmann, Marla Tun, Patrick Francis Philbin, Kellen Sean Dwyer, Catherine M. Campbell, Renee J. Bushey, Melissa Ann Brennan, Eric Field, Craig T. Fessenden